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9
10 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
11 **BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. VN-2005-1822

14 CYNTHIA C. RABARA,
a.k.a. CYNTHIA CRANE RABARA,
15 a.k.a. CYNTHIA RABARA
a.k.a. CYNTHIA CRANE
16 10982 Canyon Mesa Lane
San Diego, California 92126

A C C U S A T I O N

17 Vocational Nurse License No. VN 158471

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
23 Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational
24 Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

25 2. On or about July 2, 1992, the Bureau issued Vocational Nurse License
26 Number VN 158471 to Cynthia C. Rabara, also known as Cynthia Crane Rabara, Cynthia
27 Rabara, and Cynthia Crane ("Respondent"). Respondent's vocational nurse license was in full

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1 force and effect at all times relevant to the charges brought herein. The license expired on March
2 31, 2008, and is in a delinquent status.

3 **STATUTORY AND REGULATORY PROVISIONS**

4 3. Business and Professions Code ("Code") section 2875 provides, in
5 pertinent part, that the Bureau may discipline the holder of a vocational nurse license for any
6 reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing
7 Practice Act.

8 4. Code section 477 provides, in pertinent part, that "Board" includes
9 "bureau," "commission," "committee," "department," "division," "examining committee,"
10 "program," and "agency."

11 5. Code section 2878 states, in pertinent part:

12 The [Bureau] may suspend or revoke a license issued under this chapter
13 [the Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for
14 any of the following:

15 (a) Unprofessional conduct, which includes, but is not limited to, the
16 following:

17 (1) Incompetence or gross negligence in carrying out usual nursing
18 functions . . .

19 6. California Code of Regulations, title 16, section ("Regulation") 2519
20 states:

21 As set forth in Section 2878 of the Code, gross negligence is deemed
22 unprofessional conduct and is a ground for disciplinary action. As used in Section
23 2878 'gross negligence' means a substantial departure from the standard of care
24 which, under similar circumstances, would have ordinarily been exercised by a
25 competent licensed vocational nurse, and which has or could have resulted in
26 harm to the consumer. An exercise of so slight a degree of care as to justify the
27 belief that there was a conscious disregard or indifference for the health, safety, or
28 welfare of the consumer shall be considered a substantial departure from the
above standard of care.

7. Regulation 2520 states:

As set forth in Section 2878 of the Code, incompetence is deemed
unprofessional conduct and is a ground for disciplinary action. As used in Section
2878 'incompetence' means the lack of possession of and the failure to exercise
that degree of learning, skill, care and experience ordinarily possessed and
exercised by responsible licensed vocational nurses.

1 8. Regulation 2518.5 states, in pertinent part:

2 The licensed vocational nurse performs services requiring technical and
3 manual skills which include the following:

4

5 (b) Provides direct patient/client care by which the licensee:

6

7 (2) Administers medications . . .

8 9. Regulation 2518.6 states, in pertinent part:

9

10 (b) A licensed vocational nurse shall adhere to standards of the profession
11 and shall incorporate ethical and behavioral standards of professional practice
which include but are not limited to the following:

12 (1) Maintaining current knowledge and skills for safe and competent
13 practice . . .

14 10. Code section 118, subdivision (b), provides, in pertinent part, that the
15 expiration of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary
16 action during the period within which the license may be renewed, restored, reissued or
17 reinstated. Pursuant to Code section 2892.1, the Bureau may renew an expired license at any
18 time within four years after the expiration.

19 **COST RECOVERY**

20 11. Code section 125.3 provides, in pertinent part, that the Bureau may request
21 the administrative law judge to direct a licensee found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

24 **FACTS**

25 12. At all times herein mentioned, Respondent was employed as a licensed
26 vocational nurse at La Jolla Nursing and Rehabilitation Center ("LJNRC"), a skill nursing facility
27 located in La Jolla, California.

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1 13. On or about December 23, 2005, M. T., a 79 year old female patient, was
2 admitted to LJNRC after receiving treatment at Scripps Memorial Hospital ("Scripps"),
3 La Jolla, California, for fever, cough, and shortness of breath. M.T.'s medical history included
4 dementia, breast cancer, cerebrovascular accident, gout, diabetes, and chronic atrial fibrillation.
5 On admission to LJNRC, M.T.'s physician ordered M.T. to receive Coumadin¹ 10 mg by mouth
6 daily, but to hold the medication if the INR (international normalized ratio) was greater than 2.7.
7 The Daily Cumulative Summary Report dated December 23, 2005, received from Scripps
8 indicated that the laboratory results for M.T.'s INR testing of the same date were "pending" and
9 that M.T.'s previous days INR levels were 3.5, 3.2, and 2.2 for December 22, 21, and 20, 2005,
10 respectively. LJNRC's care plan for M.T. indicated that there was increased potential for
11 bleeding due to the use of the anti-coagulant for diagnosis of M.T.'s "DVT prophylaxis", that
12 M.T.'s lab values, including INR, were to be monitored and all values reported to the doctor, that
13 venipuncture sites were to be monitored for excessive bleeding, and that the Coumadin was to be
14 administered "per MD orders".

15 14. On or about December 23, 24, 27, and 28, 2005, and January 3 through 5,
16 7 through 11, 14, and 15, 2006, Respondent administered Coumadin 10 mg to M. T.

17 15. On or about January 17, 2006, it was reported that M.T. had been
18 vomiting and was diaphoretic with abnormal vital signs. LJNRC staff contacted the physician,
19 who instructed the staff to call 911 and have M.T. transported to Scripps. 911 was called at
20 approximately 1535 hours. Paramedics arrived at LJNRC at 1540 hours and transported M.T. to
21 Scripps. At approximately 1830 hours, Scripps telephoned LJNRC and informed the facility that
22 M.T. *had an IRN of 20* with massive bleeding into the brain. M.T. died on January 18, 2006.

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27 1. Coumadin is an anticoagulant medication (blood thinner). In order to optimize the therapeutic effect
28 without risking dangerous side effects, such as bleeding, close monitoring of the degree of anticoagulation is
required by blood testing for the international normalized ratio (INR).

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 16. Respondent is subject to disciplinary action pursuant to Code section
4 2878, subdivision (a)(1), on the grounds of unprofessional conduct. In and between December
5 2005, and January 2006, while employed as a licensed vocational nurse at LJNRC, Respondent
6 was guilty of gross negligence in her care of patient M. T. within the meaning of Regulation
7 2519, as follows:

- 8 a. Respondent failed to review M.T.'s INR test results before administering
9 the Coumadin.
- 10 b. Respondent failed to follow-up to determine why the proper lab work had
11 not been obtained.
- 12 c. Respondent failed to call M.T.'s physician for an order for INR lab work
13 and then notify the lab to perform a stat INR.
- 14 d. Respondent failed to consult with the admitting/supervising registered
15 nurse.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Incompetence)**

18 17. Complainant incorporates by reference as though fully set forth herein the
19 allegations contained in paragraphs 12 through 15, above.

20 18. Respondent is subject to disciplinary action pursuant to Code section
21 2878, subdivision (a)(1), on the grounds of unprofessional conduct, in that in and between
22 December 2005, and January 2006, while employed as a licensed vocational nurse at LJNRC,
23 Respondent was guilty of incompetence in her care of patient M. T. within the meaning of
24 Regulation 2520, as set forth in paragraph 16 above.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct)**

27 19. Complainant incorporates by reference as though fully set forth herein the
28 allegations contained in paragraphs 12 through 15, above.

20. Respondent is subject to disciplinary action pursuant to Code section 2878, subdivision (a), in that in and between December 2005, and January 2006, while employed as a licensed vocational nurse at LJNRC, Respondent committed acts constituting unprofessional conduct, as set forth in paragraph 15 above.

PRAYER

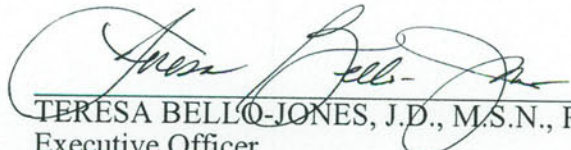
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Bureau of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 158741, issued to Cynthia C. Rabara, also known as Cynthia Crane Rabara, Cynthia Rabara, and Cynthia Crane;

2. Ordering Cynthia C. Rabara, also known as Cynthia Crane Rabara, Cynthia Rabara, and Cynthia Crane, to pay the Bureau of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: September 8, 2008


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Bureau of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California

Complainant